

SIKKIM



GOVERNMENT

GAZETTE

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

Gangtok

Tuesday 4th February, 2020

No. 27

**DEPARTMENT OF LABOUR
GOVERNMENT OF SIKKIM**

No. 27/DL

Dated: 20/05/2019

NOTIFICATION

In exercise of the powers conferred by sub-section (1) of section 14 of the Unorganised Workers' Social Security Act, 2008 (33 of 2008), the State Government hereby makes the following rules, namely: -

CHAPTER I PRELIMINARY

1. Short title and commencement-

- (1) These rules may be called the Sikkim Unorganised Workers' Social Security Rules, 2019.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions-

- (1) In these rules, unless the context otherwise requires-
 - (a) "Act" means the Unorganised Workers' Social Security Act, 2008 (33 of 2008);
 - (b) "Board" means the Sikkim State Social Security Board constituted under section 6 of the Act;
 - (c) "Chairperson" means the Chairperson of the Board;
 - (d) 'Contribution' means the amount of contribution payable by the unorganised worker, the self-employed person or other beneficiary as a member of the scheme or the employer as provided under clause (ii) of sub-section (1) of section 7 and also under sub-section (4) of section 10 of the Act and includes the amount given by the Central Government from time to time as per the scheme notified under sub-section (4) of section 3;
 - (e) 'District Administration' means the District Administration as referred to in section 8 of the Act or a district level subordinate officer authorised by him with the prior approval of the State Government under sub-rule (2) of rule 22.

- (f) 'Government' means the State Government of Sikkim.
 - (g) 'Scheme' means the Welfare Scheme formulated and notified by the Central Government under sub-section (1) of section 3 of the Act and includes the Welfare Scheme formulated and notified by the State Government under sub-section (4) of section 3 of the Act;
 - (h) 'Secretary' means the ex-officio member Secretary of the Board as provided under clause (b) of sub-section (2) of section 6 of the Act;
 - (i) 'Section' means a section of the Act; and
 - (j) 'Year' means a financial year commencing on the 1st day of April and ending on the 31st day of March of the succeeding calendar year.
- (2) The words and expressions used and not defined in these rules, but defined in the Act, shall have the same meaning respectively assigned to them in the Act.

CHAPTER II

WELFARE BENEFITS, SCHEMES AND CONTRIBUTIONS

3. Eligibility for Welfare Benefits-

The unorganised workers registered under section 10 of the Act and rule 24 of these rules shall only be eligible for the benefits under the scheme, in accordance with the terms and conditions specified under the provisions of the concerned scheme.

4. Formulation of Scheme-

- (1) The Government may by notification in the Official Gazette, formulate welfare Schemes on the subjects enlisted under sub-section (4) of section 3 of the Act commonly for all subjects together or separately for one or more such subjects.
- (2) The Government may, notify any existing Welfare Scheme as a Scheme under the Act and on such notification the Scheme shall be deemed to be a Scheme formulated under section 3 of the Act subject to the terms and conditions as may be specified in such notification.

5. Contribution to the Scheme-

- (1) Any contribution or fees or any other amount fixed in the Scheme notified under sub-rule (1) or sub-rule (2) of rule 4 shall be paid by the unorganised worker or the self-employed person or the employer or the beneficiary as the case may be, at such rate and time and in the manner specified in such Scheme or Schemes.
- (2) The contribution or any other amount payable as per sub-rule (1) or any Government contribution or grant received shall be credited to the account of the Board and expended or disbursed in the manner provided in such Scheme.
- (3) All sums due to the Board from the Central Government or State Governments for the implementation of the Schemes under the provisions of the Act shall be obtained and made available to the Board by the Secretary.
- (4) The procedure for accepting, depositing and utilising the fund payable as per the provisions of any Scheme shall be specified in the concerned Scheme, which shall be under the guidance of the Board.

CHAPTER III

SIKKIM STATE UNORGANISED WORKERS' SOCIAL SECURITY BOARD

6. Constitution of the Board-

- (1) The twenty-eight members to be nominated by the Government under clause (c) of sub-section (2) of section 6 of the Act, for the purpose of constituting Board shall be as follows namely:-
 - (a) seven persons representing the unorganised workers;
 - (b) seven persons representing the employers of the unorganised workers;
 - (c) five eminent persons from Civil Society associated with the field of Labour Welfare, Management, Finance, Law and Administration;
 - (d) two members from the Sikkim Legislative Assembly;
 - (e) one member each representing Labour, Finance, Legal affairs, Urban Development and Housing, Social Welfare and Rural Development Departments of the State Government, State Labour Commissioner or one officer not below the rank of a Joint Labour Commissioner in the Labour Department, one representative nominated by the Government from any other Department.
- (2) Among the members belonging to the categories mentioned under clauses (a) to (c) of sub-rule (1) of this rule, each category shall be represented by at least one member each from the Scheduled Caste, Scheduled Tribe or Minority Community, and minimum 2 members shall be women.
- (3) Nomination of the members under clause (d) of sub-rule (1) of this rule shall be made with the concurrence of the Speaker of the Sikkim Legislative Assembly.

7. Term of Office of the Members-

- (1) The term of office of the members nominated under clauses (a) to (c) of sub-rule (1) of rule 6 shall be 3(three) years from the date of their nomination.
- (2) A member belonging to clauses (a) to (c) of sub-rule (1) of rule 6 shall cease to be a member when he ceases to represent the category of interest from which he is nominated, from the date of his cessation of representation.
- (3) The members of the Legislative Assembly nominated under clause (d) of sub-rule (1) of rule 6 shall cease to be a member when he ceases to be a member of the Legislative Assembly.
- (4) The Official Members of the Board nominated under clause (e) of sub-rule (1) of rule 6 shall hold their offices in the Board so long as they serve in their official capacity.
- (5) on expiry of the term, of 3 (three) years, the Board shall be reconstituted.
- (6) A member of the Board shall be eligible to be re-nominated for more than 1(one) term.

8. Resignation of members of the Board-

- (1) A member of the Board, other than an ex-officio member, may in writing under his hand addressed to the Chairperson resign his office at any time.

- (2) The Chairperson shall take decision to accept or reject the resignation letter, within a month. The resignation shall be deemed to have come into effect from the date of acceptance of the resignation or on the date of expiry of 1(one) month from the date of receipt of resignation letter, whichever is earlier and the seat of such member shall fall vacant with effect from that date.
- (3) The Chairperson shall place before the next board meeting, the receipt of resignation letter from a member and the decision taken thereon. If the resignation letter is rejected, the reason for rejection may also be reported to the Board.
- (4) The Board shall inform the Government regarding the acceptance or rejection of or resignation of a member.

9. Removal of a Member-

The Government, may, by order, remove any member, other than the ex-officio members, from the office of the Board,-

- (a) if he is declared to be of unsound mind; or
- (b) if he has been sentenced to imprisonment for any offence involving moral turpitude; or
- (c) if he has been, without the permission of the Board, been absent from 3 consecutive meeting of the Board; or
- (d) if in the opinion of the Government, he has become unsuitable or has become incapable of acting as a member or has so abused his position as a member as to render his continuance as a member detrimental to the public interest:

Provided that no member shall be removed from office without giving him a reasonable opportunity of being heard against the proposed removal and without considering his explanation.

10. Filling up casual vacancies-

When vacancies arise in the Board due to resignation, death or removal or otherwise of a member, the Secretary shall inform the Government and the Government shall immediately nominate another person from the concerned category as a member and the member so appointed shall, subject to the provisions of rule 7, hold office for the remaining period of the term of office of the member in whose vacancy he is nominated.

11. Board Meeting-

- (1) The Board shall meet at least once in 3(three) months. The Secretary shall convene the meeting at such time, date and at such place as decided by the Chairperson.
- (2) The Chairperson must convene meeting of the Board on the written requisition of not less than 15 (fifteen) members jointly demanding to convene Board Meeting within 20 (twenty) days of receipt of such a requisition.
- (3) The Chairperson shall have powers to call special meeting of the Board at any time to decide any matter which is of urgent nature.

12. Notice of Meeting-

- (1) The Secretary shall give notice of the meeting at least 10(ten) days prior to the date of the proposed meeting, showing the date, time and place of the meeting together

with the agenda, to every member directly or through special messenger or by registered post or by e-mail.

- (2) For special meeting convened under sub-rule (3) of rule 11 to consider any urgent matter, 2(two) days prior notice informing the subject matter for discussion shall be given to each member.

13. Change in the address-

- (1) Each member shall inform the Secretary of any change in the address given in the order nominating him as a member and the Secretary shall make suitable alterations in the records.
- (2) If the member fails to give the information as required under sub-rule (1), the notice under rule 12 shall be sent in the available address and even if such notice is not received due to any change in the address, it will be considered that the notice is duly served.

14. Presiding over the meeting of the Board-

- (1) The Chairperson shall preside over every meeting of the Board.
- (2) If the Chairperson is absent at any time, he may nominate a member of the Board to preside over such a meeting in his place and in the absence of such a nomination by the Chairperson, the members of the Board present in such meeting may elect one member amongst them and the member so elected shall preside over that meeting.
- (3) The member who is nominated to preside over the meeting as per sub-rule (2) shall have and exercise all the powers and rights of the Chairperson.

15. Quorum of the Meeting-

- (1) No business shall be transacted at any meeting of the Board unless at least one third of the members existing at the time in the Board or 7 (seven) members, whichever is less, are present of whom at least one each shall be from among those nominated under clauses (a) and (b) of sub-rule (1) of rule 6.
- (2) If there is no quorum for the meeting, the Chairperson may adjourn the meeting, to another date after the expiry of not less than 7(seven) days, informing the members present directly and giving notice to those who are absent and in the adjourned meeting whether there is prescribed quorum or not, it shall thereupon be lawful for him to dispose of the business irrespective of the number of members attending the meeting.

16. Agenda of the meeting and disposal of business-

- (1) Nothing other than the subjects shown in the agenda for the meeting shall be discussed or decided in the meeting, except with the permission of the Chairperson.
- (2) Every decision in the meeting of the Board shall be taken by a majority of the members present and voting at the meeting.
- (3) In the case of equal number of votes or any issue, the matter shall be decided by exercising a second vote or casting vote by the Chairperson.

17. Minutes of the Meeting-

- (1) The Secretary shall prepare the minutes of the meeting and the Chairperson and the Secretary shall affix their signatures on it.
- (2) The Minutes signed by the Chairperson shall be read over to the members in the next meeting. Modifications, if any, made thereon shall be signed by the Chairperson and the Secretary after such modification and confirmation on it.

18. Allowances to the members of the Board-

- (1) The members of the Board except the ex-officio Chairperson and Secretary, members of the Legislative Assembly and the official members shall be eligible for sitting fee for attending the meeting at the rate decided by the Government from time to time.
- (2) The Board shall pay to every non-official member travelling allowance and daily allowance for attending the meeting of the board at such rates admissible to Group A officers of the Government.
- (3) Travelling allowance and daily allowance for attending the meeting of the Board to every official member, including the ex-officio Secretary, shall be paid by the Board at the rate admissible to him as per the rules applicable to him for journeys performed on official duty.
- (4) The members of the Legislative Assembly and the ex-officio Chairperson shall be paid travelling allowance by the Board for attending the meeting of the Board, at the rates admissible to them as per the rules applicable to him for journeys performed on official duty.
- (5) For the purpose of calculation of travelling allowance of a member, the place of his/her residence/office shown in his appointment order as a member will be taken as his headquarters.

19. Functions of the Board-

In addition to the functions stated in sub-section (8) of section 6 of the Act, the Board shall have the following functions, namely:-

- (a) realisation of fee and other charges for registration of the unorganised workers as members;
- (b) preparation of annual budget and submission to the Government;
- (c) preparation of annual report on the working of the Board and submission to the Government;
- (d) maintenance of accounts;
- (e) implementation of the directions issued by the Government from time to time; and
- (f) implementation of all matters entrusted by the Central and State Governments, according to their directions and furnishing of information as required by the Government from time to time.

20. Expenditure and maintenance of accounts by the Board-

- (1) The amount for initial administrative expenditure required for the functioning of the Board shall be sanctioned by the Government.

- (2) The Board shall maintain necessary and proper accounts in respect of the income and expenditure of the Board.
- (3) All amounts received by the Board shall be deposited in the manner as may be decided by the Board.

21. Headquarters of the Board-

The headquarters of the Board shall be at Gangtok, Sikkim.

CHAPTER IV MAINTENANCE OF RECORDS

22. Implementation and maintenance of records at District level-

- (1) The record keeping functions under section 8 of the Act shall be performed by the District Administration.
- (2) The District Administration may, with prior approval of the Government, by order, entrust the functions under sub-rule (1) to a district level sub-ordinate officer working under him.
- (3) The District Administration may direct a sub-divisional level or village level subordinate officer under his jurisdiction to receive the applications for registration and the registration fees under the Act and to submit the same together with his enquiry report, to the District Administration or to the authorised officer.
- (4) The District Administration shall implement the provisions of the Act within its jurisdiction under the supervision and guidance of the Board.
- (5) The District Administration shall maintain proper records, documents and registers regarding the implementation of the Act and the rules and shall also perform the following duties, namely:-
 - (a) registration of the unorganised workers and issuance of identity cards or smart cards to them as per the provisions of the Act, Rules and the Scheme;
 - (b) realise the contributions and registration fees and deposit the same in the manner prescribed by the National Social Security Board or the Sikkim State Unorganised Workers' Social Security Board as the case may be;
 - (c) implement the provisions of the scheme, for which the Board is authorised under the Act;
 - (d) give necessary information and report to the Governments, to the National Social Security Board as well as to the State Board;
 - (e) evaluate the functions of the Workers' Facilitation Centres and give necessary directions for the proper functioning of the Centres, and
 - (f) undertake any other functions as per the directions of the Central or State Governments or the National Social Security Board or the Sikkim State Social Unorganised Workers' Social Security Board.

23. Workers' Facilitation Centres-

- (1) The Government may, by order authorise or direct any establishment or organisation or society to function as the Workers' Facilitation Centres under Section 9 of the Act.

- (2) The general supervision over the function of the Workers' Facilitation Centres will be on the District Administration or the Officers authorised by the Board.
- (3) Each Workers' Facilitation Centre shall perform the functions as provided in section 9 of the Act and as per the directions of the District Administration or the authorised officer concerned and shall give necessary information and reports as and when required by the District Administration.

CHAPTER V

REGISTRATION

24. Registration and issue of Identity Card-

- (1) The application for registration as per sub-section (2) of section 10 of the Act shall be submitted to the District Administration or to the authorised officer in Form I appended to these rules.

- (2) The application for registration shall contain two passport size photographs of the applicant, document to prove his age and a self declaration by the applicant confirming that he is an unorganised worker.

Note:- Attested copy of the School Certificate or birth certificate issued by the Registrar of Births and Deaths or Electoral Identity Card or Passport or Ration Card shall be sufficient to prove the age.

- (3) On receipt of the application, the District Administration or the authorised Officer, after making due enquiries or verifying the enquiry report of the sub-ordinate officer, shall issue order accepting the application for registration or rejecting the same and a copy of the order shall be served to the applicant.
- (4) On accepting the application, the District Administration or the authorised officer shall enter the name of the applicant in a register, after allotting a unique identification number and shall issue an identity card or smart card to the applicant in Form II, appended to these Rules.
- (5) The unique identification number shall bear code number, the character for the State and the District and the serial number of the beneficiary in each district. The Board shall intimate the District Administration or the authorised officer, the manner in which such identification number is to be allotted.
- (6) The Identity Card or Smart Card shall be exclusive proof to show that the person is an unorganised worker and that he is entitled for registration under the scheme or schemes formulated as per the Act.
- (7) Any person aggrieved by the Orders of the District Administration or the Officer authorised by him rejecting the application for registration may prefer appeal before the Board within thirty days of receipt of the order under sub-rule (3) and the Board shall take decision on the appeal, as early as possible, which shall be final.

Provided that the Board may accept the appeal filed after the expiry of the prescribed time, it is satisfied that the delay occurred due to reasonable cause.

25. Duplicate identity card-

If the Identity Card or Smart Card of a member is lost, the member may submit an application to the District Administration or to the authorised officer for the issue of a

duplicate Identity Card/Smart Card alongwith the fee at the rate prescribed for registration under rule 26 and the District Administration or the authorised officer may issue a duplicate Identity Card or Smart Card to the applicant denoting as 'Duplicate' on the card.

26. Registration Fee-

The fee for registration under Rule 24 shall be Rs.25(Rupees Twenty Five). The registration fee shall be remitted to the office of the District Administration or the authorised officer along with the application for registration in cash or by Demand Draft.

27. Cessation of membership-

(1) The membership of an unorganised worker registered as a member under rule 24 shall be ceased, when he becomes an organised worker or he permanently leaves the State of Sikkim or otherwise ceases his status as an unorganised worker.

(2) The District Administration or the authorised officer may cancel the membership of an unorganised worker at any time if it is found that the membership was obtained by furnishing false information and the same shall be intimated to the member.

Provided that the membership shall not be cancelled without giving the member an opportunity of being heard.

(3) Any member aggrieved by the order of cancellation of membership under sub-rule (2) may prefer an appeal before the Board within 30(Thirty) days of receipt of intimation under sub-rule (2) of this rule. The Board shall take decision on the appeal which shall be intimated to the applicant and the decision of the Board on the appeal shall be final.

CHAPTER VI

ANNUAL REPORT AND AUDIT

28. Annual Report-

The Board shall before 31st July of every year submit to the Government an annual report on the working of the Board and the implementation of the Act and the Schemes.

29. Budget-

The Board shall submit to the Government or before 30th September every year, after its approval, a Budget showing the probable income of the Board, contributions, or grant from the Central or State Governments, other sums to be received and all the expenses required for the functioning of the Board and for the implementation of the Act and Rules, in the next year.

30. Audit-

All accounts of the Board shall be audited every year as directed by the Government and the audit report shall be submitted to the Government on or before 31st of December of the next year.

By order and in the name of the Governor.

**L.P. Chettri SCS,
Secretary,
Labour Department,
Government of Sikkim.**

Appendix

FORM I

APPLICATION FOR REGISTRATION

[See rule 24 (1)]

1. Name of the applicant :
2. Father's/Husband's Name :
3. Age/Date of Birth :
4. Permanent Address in full
(with Pin Code) :
5. Place of Residence :
 - (a) Panchayat, District :
 - (b) Place of Birth :
(with State, District) :
6. Marital Status of the Applicant :
7. Nature of employment :
 - (i) Give details of employment,
if employed under various
Employers. :
 - (ii) Whether daily paid/ Monthly paid :
 - (iii) Name of employment/post :
8. If employed in any establishment :
 - (a) Name and Address of the Establishment :
 - (b) Total no. of employees in the
Establishment :
9. Whether the applicant is a member
Of Employees State Insurance or
Employees Provident Fund Scheme
If so, Member No. :
Employees State Insurance :
Employees Provident Fund :
10. If a self-employed person, place of work :
11. If a domestic worker or a home
Worker, name of the employer,
House name and address :
12. If a contract worker:
 - (a) Name and address of the Principal
Employer :

- (b) Name and address of the Contractor :
13. Monthly income of the applicant :
14. Whether the applicant is a member of any existing Welfare Fund :
If yes, the name of the Board and Membership number :
15. Applicants:
- (a) Religion/caste :
- (b) Whether belongs to SC or ST :
- (c) Whether included in the BPL or APL (At the time of submission of this application) :

I,..... do hereby declare that I am an unorganised worker as per the Unorganised Workers' Social Security Act, 2008 and all the information furnished by me are true and correct to the best of my knowledge and belief.

Place: Signature:

Date: Name:

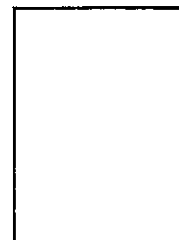
- Note: (1) Affix one passport size photo in the application and enclosed one photo alongwith the application in a separate cover.
- (2) Enclose proof of age.

FORM II

SIKKIM STATE UNORGANISED WORKERS' SOCIAL SECURITY BOARD

IDENTITY CARD

[See rule 24 (4)]



1. Name and address :
2. Registratio No. :
3. Date of effect of Registration :
4. Age and Date of Birth :
5. Employment :

Place:

Dated:

Signature and Designation of the
Registering Authority.
(Office Seal)